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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,654	12/27/2000	Justin Chickles	5150-43100	1473
35690	7590	08/11/2005	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			VU, KIEU D	
		ART UNIT	PAPER NUMBER	
		2173		

DATE MAILED: 08/11/2005

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/752,654

Filing Date: December 27, 2000

Appellant(s): CHICKLES ET AL.

Justin Chickles  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 05/23/05.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

The rejection of claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, 153-158 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof.

The rejection of claims 81, 85, 88-94, 102, 114-116, 123, 125-127, 141-142, 147-148, 150, and 152 stand or fall together because appellant's brief does not include a

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statement that this grouping of claims does not stand or fall together and reasons in support thereof.

See 37 CFR 1.192(c)(7).

**(8) *ClaimsAppealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

5758072                  Filepp et al                  05-1998

Appellant's Admitted Prior Art (hereinafter "AAPA"), pages 1-4 and Figures 4A, 4B, 4C.

Gavron et al "How to Use Microsoft Windows NT 4 Workstation", 1996, pages 7, 40-41.

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

Claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, 153-158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appellant's admitted prior art and Filepp (USP 5,578,072).

Claims 81, 85, 88-94, 102, 114-116, 123, 125-127, 141-142, 147-148, 150, and 152 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appellant's admitted prior art, Filepp, and Gavron et al "How to Use Microsoft Windows NT 4 Workstation", 1996, pages 7, 40-41.

As acknowledged by Appellant, claims 108 and 110 were unintentionally grouped in the second ground of the rejection and "claims 108 and 110 should have been grouped and addressed in the first ground of rejection above". Since the evidence relied upon to reject the limitations of claims 108 and 110 have not changed, it is noted that claims 108 and 110 are now correctly grouped in the first ground of the rejection as addressed above. See MPEP 1208.01.

#### **DETAILED ACTION**

1. Claims 73-76, 78-120, 122-144, and 146-158 are pending.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, 153-158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appellant's admitted prior art and Filepp (USP 5,578,072).

Regarding claim 73, Appellant's admitted prior art teaches the displaying of a first palette window (100A) from a hierarchy of palette windows wherein one or more of the palette windows comprises palette items (106, 110A, 108A) that are selectable by a

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user, wherein each of the palette items is selectable by the user to include functionality in a program being created or modified (page 1, lines 26-28), wherein one or more of the palette windows comprise a palette window selection item, wherein the palette window selection item is selectable by the user to display a second palette window from the hierarchy of palette windows (page 1, lines 28-35). The first palette window includes navigation items (108A) for navigating among the hierarchy of palette windows.

Appellant's admitted prior art also teaches the receiving of user input selecting a navigation item (selecting icon 108A) and the displaying of a child palette window (100B) in response to said user input selection (see figure 4B). Appellant's admitted prior art differs from the claim in that Appellant's admitted prior art fails to teach that a first palette window is closed subsequent to said receiving the user input selecting navigation item. However, such feature is old and well known in the art. For example, Filepp teaches the navigation buttons Next 291 which, upon selected, will close the current page and display the next page (Fig. 3b). It would have been obvious to one skilled in the art at the time the invention was made to apply Filepp teaching of a next button for closing a current page and display the next page in Appellant's admitted prior art system with the motivation being to easily navigate through the series of windows.

Regarding claims 117 and 143, Appellant's admitted prior art teaches the displaying of a first palette window (100A) from a hierarchy of palette windows wherein one or more of the palette windows comprises palette items (106, 110A, 108A) that are selectable by a user, wherein each of the palette items is selectable by the user to include functionality in a program being created or modified (page 1, lines 26-28). The

first palette window includes navigation items (108A) for navigating among the hierarchy of palette windows. Appellant's admitted prior art also teaches the receiving of user input selecting a navigation item (selecting icon 108A) and the displaying of a child palette window (100B) in response to said user input selection (see figure 4B).

Appellant's admitted prior art differs from the claim in that Appellant's admitted prior art fails to teach that a first palette window is closed subsequent to said receiving the user input selecting navigation item. However, such feature is old and well known in the art. For example, Filepp teaches the navigation buttons Next 291 which, upon selected, will close the current page and display the next page (Fig. 3b). It would have been obvious to one skilled in the art at the time the invention was made to apply Filepp teaching of a next button for closing a current page and display the next page in Appellant's admitted prior art system with the motivation being to easily navigate through the series of windows.

Regarding claims 74 and 118, Appellant's admitted prior art also teaches icons (110A, 108, 112A, 112B, etc.) that are selectable to include functionality associated with the palette item in the program being created or modified (page 1, lines 26-28).

Regarding claims 75, 119 Appellant' admitted prior art also teaches that user interface element such as control and indicators (ActiveX controls, buttons, switches, graphs, gauges, etc.) (functionality) may be added to the program using palette windows 100 (See page 2, lines 14-19), the being created or modified (page 1, lines 26-28).

Regarding claims 76, 120 and 144, Appellant' admitted prior art also teaches that palette items include icons that are selectable by the user to include nodes in the graphical program (See figure 4B, icons in Graph menu) being created or modified (page 1, lines 26-28).

Regarding claims 86 and 124, Appellant' admitted prior art also teaches each of the palette window selection items is operable when selected to display different child palette window (Fig. 4A-4C).

Regarding claim 87, the admitted prior art teaches displaying a first parent palette window (100A), selecting a first palette window (100B), and displaying a first palette window (100B). The admitted prior art further teaches the first parent window comprises a palette window selection item which corresponds to the first palette window (page 1, lines 28-32)

Regarding claims 95, 128, and 149, Appellant's admitted prior art teaches the displaying of a first palette window (100A) from a hierarchy of palette windows wherein one or more of the palette windows comprises palette items (106, 110A, 108A) that are selectable by a user to include functionality in a program being created or modified (page 1, lines 26-28). The first palette window includes navigation items (108A) for navigating among the hierarchy of palette windows. Appellant's admitted prior art also teaches the receiving of user input selecting a navigation item (selecting icon 108A) of the one or more navigation items displayed on the currently displayed palette window (page 1, lines 28-32) and the displaying of a child.palette window (100B) in response to said user input selection (see figure 4B). Appellant's admitted prior art differs from the

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claim in that Appellant's admitted prior art fails to teach that a first palette window is closed subsequent to said receiving the user input selecting navigation item. However, such feature is old and well known in the art. For example, Filepp teaches the navigation buttons Next 291 which, upon selected, will close the current page and display the next page (Fig. 3b). It would have been obvious to one skilled in the art at the time the invention was made to apply Filepp teaching of a next button for closing a current page and display the next page in Appellant's admitted prior art system with the motivation being to easily navigate through the series of windows.

Regarding claims 78, 98, 131, and 149, Appellant' admitted prior art also teaches when window 100B is closed, window 100A would be opened as part of the hierarchy window system.

Regarding claims 96, 119, and 129, Appellant' admitted prior art also teaches that user interface element such as control and indicators (ActiveX controls, buttons, switches, graphs, gauges, etc.) (functionality) may be added to the program being created or modified (page 1, lines 26-28) using palette windows 100 (See page 2, lines 14-19).

Regarding claims 97, 120, and 130, Appellant' admitted prior art also teaches that palette items include icons that are selectable by the user to include nodes in the graphical program (See figure 4B, icons in Graph menu) being created or modified (page 1, lines 26-28).

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Regarding claims 99, 132-134, 139 and 140, Appellant's admitted prior art fails to teach that navigation item includes forward item or backward item. However, Filepp teaches "next" icon (forward item), "back" icon (back item) to enable users to easily navigate through the series of windows (See Fig. 3). Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Filepp's teaching of "next" icon (forward item), "back" icon (back item) in the display system of Appellant's admitted prior art with the motivation being to enable users to easily navigate through the series of windows.

Regarding claim 100, Filepp teaches the navigation item is a back navigation item operable when selected to display a most recently previously displayed palette window in a backward direction (see "BACK" button in Fig. 3B).

Regarding claim 101, Filepp teaches forward navigation item operable when selected to display a most recently previously displayed palette window in a forward direction (in Fig. 3B, the selection of "Next" button preceded by the selection "Back" button will display a most recently previously displayed palette window in a forward direction).

Regarding claims 103 and 135, Appellant's admitted prior art teaches each of the palette window selection items is operable when selected to display different child palette window (Fig. 4A-4C)

Regarding claims 104, 109, 136 and 151, 153, Appellant's admitted prior art teaches the displaying of a first palette window (100A) from a hierarchy of palette

windows wherein one or more of the palette windows comprises palette items (106, 110A, 108A) that are selectable by a user to include functionality in a program being created or modified (page 1, lines 26-28). The first palette window includes navigation items (108A) for navigating among the hierarchy of palette windows. Appellant's admitted prior art also teaches the receiving of user input selecting a navigation item (selecting icon 108A) and the displaying of a child palette window (100B) in response to said user input selection (see figure 4B), the child palette window comprises at least one palette item (page 1, lines 28-32). Appellant's admitted prior art differs from the claim in that Appellant's admitted prior art fails to teach the closing of the first palette window and the displaying of the child palette window (second palette window) in response to a user input selection. However, Filepp, in the same art of graphical user interface system, clearly teaches at col. 49, lines 39-41 that a user selection of a close command can trigger the system to perform both tasks of closing a current window and open another window. This mechanism saves a separate step of opening a window, and enables efficient conditional execution. One skilled in the art would have recognized such efficiency advantage provided by Filepp's teaching. Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Filepp's teaching of closing a window and opening a window in response to a user selection in display system of Appellant's admitted prior art with the motivation being to enhance program execution efficiency.

Regarding claims 105, 137, and 154-155, Appellant' admitted prior art also teaches that user interface element such as control and indicators (ActiveX controls,

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buttons, switches, graphs, gauges, etc.) (functionality) may be added to the program being created or modified (page 1, lines 26-28) using palette windows 100 (See page 2, lines 14-19).

Regarding claims 106, 138, and 156-157, Appellant' admitted prior art also teaches that palette items include icons that are selectable by the user to include nodes in the graphical program (See figure 4B, icons in Graph menu) being created or modified (page 1, lines 26-28).

Regarding claims 107 and 158, Appellant' admitted prior art also teaches when window 100B is closed, window 100A would be opened as part of the hierarchy window system.

Regarding claim 108, Filepp teaches the navigation item is a back navigation item operable when selected to display a most recently previously displayed palette window in a backward direction (see "BACK" button in Fig. 3B).

Regarding claim 110, Filepp teaches forward navigation item operable when selected to display a most recently previously displayed palette window in a forward direction (in Fig. 3B, the selection of "Next" button preceded by the selection "Back" button will display a most recently previously displayed palette window in a forward direction).

Regarding claims 111-113, Appellant' admitted prior art also teaches each of the palette window selection items is operable when selected to display different child palette window (Fig. 4A-4C), each of the palette windows in the hierarchy of palette windows comprises one or more navigation items (page 1, lines 26-32).

Regarding claims 79, 80, 82-84, 122 and 146, Appellant's admitted prior art fails to teach that navigation item includes forward item or backward item. However, Filepp teaches "next" icon (forward item), "back" icon (back item) to enable users to easily navigate through the series of windows (Fig. 3). Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Filepp's teaching of "next" icon (forward item), "back" icon (back item) in the display system of Appellant's admitted prior art with the motivation being to enable users to easily navigate through the series of windows.

4. Claims 81, 85, 88-94, 102, 114-116, 123, 125-127, 141-142, 147-148, 150, and 152 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appellant's admitted prior art, Filepp, and Gavron et al ("How to Use Microsoft Windows NT 4 Workstation", 1996, pages 7, 40-41).

Regarding claims 88, 125-127 and 148, the admitted prior art fails to teach the search feature including a search window. However, such feature is old and well known in the art as evidenced by the popular window help program which provides the search feature including a search window. Gavron teaches such feature in the book entitled "How to use Microsoft Windows NT 4 workstation" (See page 7). Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Gavron's teaching of providing the search feature including a search window in Appellant's admitted prior art in view of Gavron display system with the motivation being to provide convenient searching feature.

Regarding claim 89, Gavron teaches the identification and displaying of possible palette windows in accordance with the search criteria user input (folders). Note that each index entry is linked to a palette window displaying the details of that entry.

Regarding claims 90-94, Gavron teaches search text string is used as input in performing the search (string "folders in figure in page 7").

Regarding claims 81, 85, 123, 147, the admitted prior art fails to teach an "up" icon for the purpose of enabling user to easily navigate through a hierarchy of windows. However, such feature is old and well known in the art. For example, Gavron teaches, in the book entitled "How to use Microsoft Windows NT 4 workstation", the "up" icon (see the up-one-level icon in the middle of page 41). These icons undoubtedly enable the users to easily navigate through a hierarchy of windows. Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Gavron's teaching of providing "back" icon, "forward" icon and "up" icon in the display system of Appellant's admitted prior art with the motivation being to enable user to easily navigate through a hierarchy of windows.

Regarding claims 102, 141 and 150, the admitted prior art and Filepp fails to teach the "up" icon for the purpose of enabling user to easily navigate through a hierarchy of windows. However, such features are old and well known in the art. For example, Gavron teaches, in the book entitled "How to use Microsoft Windows NT 4 workstation", the "up" icon (see the up-one-level icon in the middle of page 41). These icons undoubtedly enable the users to easily navigate through a hierarchy of windows. Thus, it would have been obvious to one skilled in the art at the time the invention was

made to apply Gavron's teaching of providing "back" icon, "forward" icon and "up" icon in the display system of Appellant's admitted prior art in view of Filepp with the motivation being to enable user to easily navigate through a hierarchy of windows.

Regarding claim 114, the admitted prior art and Filepp fails to teach the search feature including a search window. However, such feature is old and well known in the art as evidenced by the popular window help program which provides the search feature including a search window. Gavron teaches such feature in the book entitled "How to use Microsoft Windows NT 4 workstation" (See page 7). Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Gavron's teaching of providing the search feature including a search window in Appellant's admitted prior art and Filepp's display system with the motivation being to provide convenient searching feature.

Regarding claims 115-116, AAPA teaches selecting the new palette window from hierarchical palette windows (selecting palette items to open the new palette window in Fig. 4C). Gavron teaches displaying information in the search window (see search windows displayed in page 7).

Regarding claims 142 and 152, the admitted prior art and Filepp fails to teach the search feature including a search window. However, such feature is old and well known in the art as evidenced by the popular window help program which provides the search feature including a search window. Gavron teaches such feature in the book entitled "How to use Microsoft Windows NT 4 workstation" (See page 7). Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply

Gavron's teaching of providing the search feature including a search window in Appellant's admitted prior art and Filepp's display system with the motivation being to provide convenient searching feature.

**(11) Response to Argument**

Claims 73, 95, 117, 128, 143, and 149 and their respectively dependent claims:

In response to Appellant's argument "Nowhere does Filepp teach or suggest palette windows that include user selectable palette items for inclusion of desired functionality in a program, nor navigating among such palettes via navigation items included in the palette windows. Filepp specifically fails to teach or suggest "receiving user input selecting a navigation item displayed on the first palette window; closing the first palette window in response to said receiving user input selecting the navigation item; and displaying at least one of a parent palette window or a child palette window in relation to the first palette window in the hierarchy of palette windows in response to said user input selecting the navigation item", it is noted that this argument attacks the reference individually since the admitted prior art teaches palette windows that include user selectable palette items for inclusion of desired functionality in a program (100 A, 106, 110 A, 108 A) (page 1, lines 26-28). The admitted prior art further teaches the first palette window include navigation items (108A) for navigating among such palettes. The admitted prior art also teaches receiving of user input selecting a navigation item (selecting icon 108A) and the displaying of a child palette window (100B) in response to said user input selection (see figure 4B). Filepp is cited for teaching that "a first palette

window is closed subsequent to said receiving the user input selecting navigation item" which is not taught by the admitted prior art.

In response to Appellant's argument against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Appellant's argument that "Filepp actually teaches away from the Appellant's invention as claimed", it is noted that such is not quite the case since Appellant's admitted prior art, Appellant's invention, and Filepp are in the same field of graphical user interface and window navigation.

In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one skilled in the art at the time the invention was made to apply Filepp's teaching of a next button for closing a current page and display the next page in Appellant's admitted prior art system with the motivation being to easily navigate through the series of windows.

Claim 79

In response to Appellant's argument "Appellant notes that since Filepp's partitioned application consists of a linear series of application pages, and is thus not organized in a logical tree structure, Filepp's system has no need for an "up" navigation item, which, as is well known, operates to move one step up in a tree structure. In fact, in Filepp's system, an "up" navigation item would be nonsensical and inoperable. Rather, Filepp's linear sequence of application pages uses "back" and "next" navigation features to move back and forth along the linear sequence of application pages, and makes no mention of an "up" navigation item", it is noted that the claim recites

...wherein the one or more navigation items comprise one or more of a forward navigation item, a back navigation item, and an up navigation item.

Since the claim recites the limitations forward navigation item, a back navigation item, and an up navigation item in an alternative language "one or more", Filepp's "back" and "next" navigation items meet the limitations of the claim.

Claims 82, 83, and 84

In response to Appellant's argument "Filepp fails to teach or suggest using menus to navigate among the pages of Filepp's application", it is noted that this argument attacks the reference individually since the admitted prior art teaches using menu to navigate among the palette windows (each palette window 100 A, 100B is a menu since it contains selectable items such as 108 A or 108 B. Upon clicking on

navigation item 108A of palette (menu) 100A, palette 100B is displayed) (see pages 2-3 of specification and Figures 4B-4C).

Claims 104, 105, 106, 111, 112, 122, 136, 137, 138, 151, 153, 154, 155, 156, and 157.

In response to Appellant's argument "the cited element 108 A is not a navigation item", it is noted that such is not quite the case since element 108 A enables navigation to a child palette window 100 B of the current palette window 100 A, therefore, element 108A is indeed a navigation item.

In response to Appellant's argument "a navigation item may switch from the current palette to any palette with the corresponding relationship indicated by the navigation item (e.g., "back")", it is noted that each of the claims 104, 105, 106, 111, 112, 136, 137, 138, 151, 153, 154, 155, 156, and 157 does not recite the "back" limitation. Only claim 122 recites "back navigation item". Regarding the "back navigation item" of claim 122, Filepp teaches "next" icon (forward item), "back" icon (back item) to enable users to easily navigate through the series of windows (Fig. 3) (see the rejection of claim 122).

In response to Appellant's argument "the CLOSE\_WINDOW [window-id] function .....in no way teaches ....", it is noted that this argument is vague since the Appellant does not provide any factual evidence to support his argument rather than simply states that the cited portion "in no way" discloses the limitation.

In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one skilled in the art at the time the invention was made to apply Filepp teaching of a next button for closing a current page and display the next page in Appellant's admitted prior art system with the motivation being to enhance program execution efficiency.

In response to Appellant's argument that "suggested motivation, enhance efficiency, is too general.....", it is noted that the motivation is specific in programming environment since Filepp teaches at col. 49, lines 39-41 that a user selection of a close command can trigger the system to perform both tasks of closing a current window and opening another window. This mechanism saves a separate step of opening a window, and therefore the mechanism enables efficient conditional execution.

Claims 107, 109, 139, 140, and 158

In response to Appellant's argument that "Filepp fails to teach or suggest "receiving user input selecting... close a currently displayed palette window and display a previously displayed palette window", it is noted that this argument attacks the reference individually since AAPA fully teaches this feature as follows

"Upon selecting palette window selection item 108A of palette window 100A, for example, by clicking or double-clicking the item, a second palette window 100B is

displayed" (lines 27-29, page 2)

"Palette window 100B may partially cover or overlap palette window 100A" (lines 2-3, page 3).

Since window 100B overlaps window 100A, closing window 100 B (i.e. closing currently displayed window) will display window 100 A (i.e. display previously displayed palette window).

In response to Appellant's argument "Nor does Filepp teach...."displaying the first palette window... " "displaying the third palette window... ", it is noted that this argument attacks the reference individually since AAPA fully teaches this feature in Fig. 4C.

In response to Appellant's argument that "Examiner's description of opening window 100A when closing window 100B is nowhere described in the AAPA", it is noted that AAPA teaches

"Upon selecting palette window selection item 108A of palette window 100A, for example, by clicking or double-clicking the item, a second palette window 100B is displayed" (lines 27-29, page 2)

"Palette window 100B may partially cover or overlap palette window 100A" (lines 2-3, page 3).

Since window 100B overlaps window 100A, closing window 100 B (i.e. closing currently displayed window) will display window 100 A (i.e. display previously displayed palette window.

Claim 113

In response to Appellant's argument that "Filepp fails to teach or suggest an "up" navigation item..." it is noted that this up navigation item is equivalent Filepp's "back" navigation item since Filepp's back navigation item are used to move back the previous window (i.e. the parent window).

In response to Appellant's argument that in Filepp's teaching "the pages compose a linear sequence, and as such do not form a hierarchical structure", it is noted that such is not quite the case. A linear sequence can form a hierarchical structure. A simple example can be a hierarchical structure having three levels wherein a parent node A has one child node B, and the child B has one child node C. In this case, the sequence A-B-C is indeed a hierarchical structure.

Claim 134

In response to Appellant's argument that "Filepp system....has no need for an "up" navigation item..", it is noted that in Filepp's teaching, "back" navigation item can be reasonably interpreted as "up" navigation item since Filepp's back navigation item is used to move back to the previous window (i.e. the parent window). Although Filepp does not literally use the word "up" for the "back" navigation item, the functionality of the back navigation item is similar to that of the "up" navigation item with respect to enabling moving back to the previous level .

In response to Appellant's argument that in Filepp's teaching "consists of a linear series of application pages, and thus is not organized in a logical tree structure...", it is noted that such is not quite the case. A linear series can form a logical tree structure. A

simple example can be a logical tree structure having three levels wherein a parent node A has one child node B, and the child B has one child node C. In this case, the sequence A-B-C is indeed a logical tree structure.

Claim 81, 102, 123, and 147

In response to Appellant's arguments that "Nowhere does Gavron mention or even hint at palette windows as described and claimed in the present application" and "Gavron fails to provide a motivation to combine with AAPA (and/or Filepp), since Gavron fails to address palette windows at all", it is noted that these arguments attack the Gavron reference individually since "palette windows" are fully taught by AAPA. It is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Appellant's arguments that "since Filepp's partitioned application consists of a linear series of application pages, and is thus not organized in a logical tree structure, Filepp's system has no need for an "up" navigation item, which, as is well known, operates to move one step up in a tree structure", it is noted that such is not quite the case. A linear series can be organized in a logical tree structure. A simple example can be a tree structure having three levels wherein a parent node A has one child node B, and the child B has one child node C. In this case, the sequence A-B-C is indeed a logical tree structure.

Claim 85

In response to Appellant's arguments that "Nowhere does Gavron mention or even hint at palette windows as described and claimed in the present application" and "Gavron fails to provide a motivation to combine with AAPA (and/or Filepp), since Gavron fails to address palette windows at all", it is noted that these arguments attack the Gavron reference individually since "palette windows" are fully taught by AAPA. It is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Appellant's argument "Filepp fails to teach or suggest using menus to navigate among the pages of Filepp's application", it is noted that it is noted that this argument attacks the reference individually since the admitted prior art teaches using menu to navigate among the palette windows (each palette window 100 A, 100B is a menu since it contains selectable items such as 108 A or 108 B. Upon clicking on navigation item 108A of palette (menu) 100A, palette 100B is displayed (see pages 2-3 of specification and Figures 4B-4C). It is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claims 88, 89, 90, 91, 92, 93, 94, and 148

In response to Appellant's argument "Nowhere does Gavron indicate how such a

general text-based search tool may be modified to operate specifically in the realm of palette windows as described and claimed in the present application. Nor can Appellant find any mention or even hint in Gavron of providing a search capability for a palette window hierarchy. Appellant further notes that Gavron's search feature locates help text stored in or accessed via a help text database, and submits that this functionality is not immediately applicable to searching for and identifying a palette window in accordance with user-supplied search criteria", it is noted that such is not quite the case. In page 1 of Appellant's specification, Appellant states a palette window contains "a plurality of items that may be selected" (lines 25-26). Read in light of Appellant's definition of palette window, *supra*, Gavron's windows as displayed in page 7 are palette windows since they contain "a plurality of items that may be selected".

In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since teachings of AAPA, Filepp, and Gavron are in the same field of displaying and navigation in windows, Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Gavron's teaching of providing the search feature including

a search window in Appellant's admitted prior art in view of Gavron display system with the motivation being to provide convenient searching feature.

Claims 108 and 110

As acknowledged by Appellant, claims 108 and 110 were unintentionally grouped in the second ground of the rejection and "claims 108 and 110 should have been grouped and addressed in the first ground of rejection above". Since the evidence relied upon to reject the limitations of claims 108 and 110 have not changed, it is noted that claims 108 and 110 are now correctly grouped in the first ground of the rejection as addressed above. See MPEP 1208.01.

In response to Appellant argument that "the cited portions of Gavron ...a prima facie case of obviousness has not been established to reject claims 108 and 110", it is noted that the argument is irrelevant since claims 108 and 110 do not recite the searching feature which is taught by Gavron.

Claims 114-116, 142, and 152

In response to Appellant's argument "Nowhere does Gavron indicate how such a general text-based search tool may be modified to operate specifically in the realm of palette windows as described and claimed in the present application. Nor can Appellant find any mention or even hint in Gavron of providing a search capability for a palette window hierarchy. Appellant further notes that Gavron's search feature locates help text stored in or accessed via a help text database, and submits that this functionality is not immediately applicable to searching for and identifying a palette window in accordance with user-supplied search criteria", it is noted that such is not quite the case. In page 1

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of Appellant's specification, Appellant states a palette window contains "a plurality of items that may be selected" (lines 25-26). Read in light of Appellant's definition of palette window, *supra*, Gavron's windows as displayed in page 7 are palette windows since they contain "a plurality of items that may be selected".

In response to Appellant's argument that "claim 114 includes the limitations "closing the currently displayed palette window in response to said user input selecting the search item".....which is also not taught or suggested by Gavron (or AAPA or Filepp)", it is noted such is not quite the case. AAPA teaches

"Upon selecting palette window selection item 108A of palette window 100A, for example, by clicking or double-clicking the item, a second palette window 100B is displayed" (lines 27-29, page 2)

"Palette window 100B may partially cover or overlap palette window 100A" (lines 2-3, page 3).

Therefore, when the item 108A is selected, the currently displayed palette window 100 A is overlapped by palette window 100B. In other words, window 100 A is closed from a view.

In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since teachings of AAPA, Filepp, and Gavron are in the same field of displaying and navigation in windows, Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Gavron's teaching of providing the search feature including a search window in Appellant's admitted prior art in view of Gavron display system with the motivation being to provide convenient searching feature.

Claims 125-127

In response to Appellant's argument "Nowhere does Gavron indicate how such a general text-based search tool may be modified to operate specifically in the realm of palette windows as described and claimed in the present application. Nor can Appellant find any mention or even hint in Gavron of providing a search capability for a palette window hierarchy. Appellant further notes that Gavron's search feature locates help text stored in or accessed via a help text database, and submits that this functionality is not immediately applicable to searching for and identifying a palette window in accordance with user-supplied search criteria", it is noted that such is not quite the case. In page 1 of Appellant's specification, Appellant states a palette window contains "a plurality of items that may be selected" (lines 25-26). Read in light of Appellant's definition of palette window, *supra*, Gavron's windows as displayed in page 7 are palette windows since they contain "a plurality of items that may be selected".

In response to Appellant's argument that "claim 125 includes the limitations "closing the currently displayed palette window in response to said user input selecting

the search item".....which is also not taught or suggested by Gavron (or AAPA or Filepp)", it is noted such is not quite the case. AAPA teaches

"Upon selecting palette window selection item 108A of palette window 100A, for example, by clicking or double-clicking the item, a second palette window 100B is displayed" (lines 27-29, page 2)

"Palette window 100B may partially cover or overlap palette window 100A" (lines 2-3, page 3).

Therefore, when the item 108A is selected, the currently displayed palette window 100 A is overlapped by palette window 100B. In other words, window 100 A is closed from a view.

In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since teachings of AAPA, Filepp, and Gavron are in the same field of displaying and navigation in windows, Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Gavron's teaching of providing the search feature including a search window in Appellant's admitted prior art in view of Gavron display system with the motivation being to provide convenient searching feature.

Claim 141

In response to Appellant's argument that "Filepp fails to teach or suggest an "up" navigation item for moving upward in a hierarchy, i.e., in a tree structure, and specifically to disclose such a navigation item for navigating among a hierarchy of palette windows" and "Filepp's navigation items (of command bar 190), "BACK" and "NEXT" are used to move back and forth between application pages of Filepp's page based application, where the pages compose a linear sequence, and as such do not form a hierarchical structure, i.e., there is no "up" direction with respect to the pages of Filepp's application. Thus, an "up" navigation item is neither needed nor accommodated in Filepp's system. Appellant notes that Filepp's command bar 190 contains no "UP" navigation item, and in fact, such a navigation item is nowhere mentioned or discussed in Filepp", it is noted that such is not quite the case. Firstly, Filepp's teaching does have hierarchical structure. A linear sequence can form a hierarchical structure. A simple example can be a hierarchical structure having three levels wherein a parent node A has one child node B, and the child B has one child node C. In this case, the sequence A-B-C is indeed a hierarchical structure. Secondly of all, in Filepp's teaching, "back" navigation item can be reasonably interpreted as "up" navigation item since Filepp's back navigation item is used to move back to the previous window (i.e. the parent window). Although Filepp does not literally use the word "up" for the "back" navigation item, the functionality of the back navigation item is similar to that of the "up" navigation item with respect to enabling moving back to the previous level. Lastly, the "up-one-level" icon in Gavron teaching is cited in the rejection as presented above.

Claim 150

In response to Appellant's arguments that "Nowhere does Gavron mention or even hint at palette windows as described and claimed in the present application" and "Gavron fails to provide a motivation to combine with AAPA (and/or Filepp), since Gavron fails to address palette windows at all", it is noted that these arguments attack the Gavron reference individually since "palette windows" are fully taught by AAPA. It is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Appellant's arguments that "the Examiner's attempted combination of AAPA (and/or Filepp) and Gavron is improper, and so cannot be used to establish a 103(a) rejection. Additionally, Appellant submits that even were AAPA (and/or Filepp) and Gavron properly combinable, which Appellant argues they are not, the alleged combination would still not produce Appellant's invention as represented in claim 150", it is noted that the combination as presented above is proper and would result in Appellant's invention since teachings of AAPA, Filepp, and Gavron are in the same field of Appellant's endeavor, i.e. displaying windows and navigating in a hierarchical structure using selected items displayed in windows.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



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